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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9
10 **BRANCH BANKING AND TRUST
COMPANY,**

11 Plaintiff,

12 vs.

13 **SMOKE RANCH DEVELOPMENT,
LLC, et al.,**

14 Defendants.

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16 2:12-cv-0453-KJD-NJK

17 **ORDER**

18 Defendants' Motion to Stay Proceedings (#97);

19 Before the Court is Defendants' Motion to Stay Proceedings (#97) filed on June 14, 2013.

20 **BACKGROUND**

21 The Defendants have requested a stay in the instant action, in its entirety, pending the
22 Nevada Supreme Court's resolution of appeals regarding the retroactivity of Assembly Bill 273
23 legislation and the interpretation of NRS 40.451, NRS 40.459(1)(e) and NRS 40.495. The
24 Defendants previously requested this exact same stay on December 7, 2012. Docket No. 34. The
25 Court denied that request on March 11, 2013, finding that the competing interests weigh in favor
of denying the stay. Docket No. 74. In the present motion, the Defendants argue that a stay is
appropriate because the parties dispute whether AB 273 applies in this case.

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DISCUSSION

2 The Court has inherent power to control its docket, including the discretion to stay
3 proceedings. *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936). The determination of whether
4 to stay proceedings is best determined by weighing the competing interests of the parties and of
5 the Court. *Id.*

6 “Among those competing interests are the possible damage which may result from the
7 granting of a stay, the hardship or inequity which a party may suffer in being required to
8 go forward, and the orderly course of justice measured in terms of the simplifying or
complicating of issues, proof, and questions of law which could be expected to result
from a stay.”

⁹ *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005); citing *Landis*, 299 U.S. at 268.

10 Here, the entirety of the Defendants' argument for why this case should be stayed is that,
11 "given the recent status of the Action (dispute over the application of AB 273), good cause exists
12 to issue a stay pending resolution of the AB 273 Appeals." The dispute the Defendants are
13 referring to is the pending Motion for Summary Judgment filed on May 1, 2013. Docket No. 82.
14 In that Motion, the Defendants argue that AB273 is applicable to this case. *Id.* In Response, the
15 Plaintiff argues that it is not. Docket No. 88.

16 However, the dispute over the application of AB 273 is not “recent.” In the Plaintiff’s
17 Opposition to the Defendants’ previous Motion to Stay, the Plaintiff argued that “even if the
18 Nevada Supreme Court rules on the AB 273 Appeals in the manner suggested by Defendants,
19 there are numerous constructional and Constitutional reasons why AB 273 still does not apply to
20 this case...” and “even assuming the Nevada Supreme Court addressed each particular issue, its
21 decision on such federal issues is not binding on federal courts.” Docket No. 38 at 9 (emphasis in
22 original).

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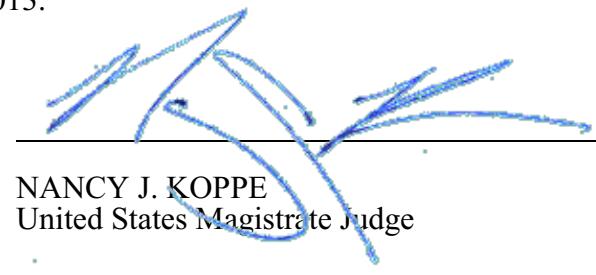
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1 Thus, the dispute over the application of AB 273 is not a new “status of the Action.”
2 Further, the Defendants make no arguments concerning *why* the dispute over the application of
3 AB 273 creates good cause nor how it is sufficient to justify a stay. Accordingly, the Court finds
4 that the Defendants have not presented any reason for a stay. The Court maintains its previous
5 finding that the competing interests weigh in favor of denying a stay. *See* Docket No. 74.

6 **CONCLUSION**

7 Based on the foregoing, and good cause appearing therefore,
8 IT IS ORDERED that the Defendants’ Motion to Stay Proceedings (#97) is **DENIED**.

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10 DATED this 24th day of June, 2013.

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13 NANCY J. KOPPE
14 United States Magistrate Judge

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